

Notice of Allowability

Application No.

10/781,055

Examiner

Laura M. Mitchell

Applicant(s)

JOHNSTON ET AL.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/18/2007.
2. ☒ The allowed claim(s) is/are 12-14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

It is noted that an amendment was filed 7/18/2007 after a final Office Action mailed 5/18/2007. This amendment has been entered. It is noted that claims 1-11 and 15-35 are cancelled in the amendment filed 7/18/2007.

Claim Rejections - 35 USC § 112

Claims 4-11 and 15-20 have been cancelled; therefore the rejection under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is moot.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

In the Specification:

In paragraph 0089

Various methods of achieving adjuvant effect for the vaccine includes use of agents such as aluminum hydroxide (alum) or aluminum phosphate, commonly used as about 0.05 to about 0.1% w/v solution in phosphate buffered saline, admixture with synthetic polymers of sugars (CARBOPOLCarbopol[®]) used as an about 0.25% solution w/v, aggregation of the protein in the vaccine by heat treatment with temperatures ranging

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between about 70° to about 101 °C. for a 30-second to 2-minute period, respectively.

Aggregation by reactivating with pepsin treated (Fab) antibodies to albumin, mixture with bacterial cells such as *Cryptosporidium parvum* or endotoxins or lipopolysaccharide components of Gram-negative bacteria, emulsion in physiologically acceptable oil vehicles such as mannide mono-oleate (Aracel A) or emulsion with a 20% solution of a perfluorocarbon (FLUOSOLFluoresol-DA®) used as a block substitute may also be employed.

The following is an examiner's statement of reasons for allowance: The instant claims are drawn to a synthetic promoter sequence identified a comprising the sequence of SEQ ID NO:35, and further defined as comprising the sequence of SEQ ID NO:36. The instant claims are drawn to a synthetic promoter sequence identified a comprising the sequence of SEQ ID NO:35, and further defined as comprising the sequence of SEQ ID NO:37. The claimed SEQ ID NOs are free of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Claims 12-14 are allowed (now claims 1-3).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura M. Mitchell whose telephone number is (571) 272-8783. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Woitach can be reached on (571) 272-0739. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Laura McGillem Mitchell, PhD
Examiner
8/6/2007

CELINE QIAN, Ph.D.
PRIMARY EXAMINER

